Local Authorities Pension Plan Board

1989

ANNUAL REPORT

Alberta

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Alberta
GOVERNMENT PENSION BOARDS

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February 1991

The Honourable Dick Johnston
Provincial Treasurer

Sir:

I have the honour to submit to you the annual report of the Local Authorities Pension Plan Board for the period January 1, 1989 to December 31, 1989. The report outlines the roles and responsibilities of the Local Authorities Pension Plan Board under the legislation governing the plan.

Board activities, during the period under review, with respect to its appellate and advisory roles are described in the report.

Yours truly,

J. E. Faries, FCIS, PAdm.
Chairman

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INTRODUCTION

The calendar year 1989 is the fourth year of operation of the Local Authorities Pension Plan Board. This Board was established on November 1, 1985 under the Local Authorities Pension Plan Act. The Plan currently covers 76,648 active participants, 13,850 pensions in payment as well as 490 contributing employer groups. The main responsibilities of the Board are:

- to hear appeals of administrative decisions made on pensions by the Minister, and
- to advise the Minister responsible for public service pensions on matters relating to the Plan.

The Honourable Dick Johnston, Provincial Treasurer, is the Minister responsible for public service pensions. The Plan is administered by Alberta Treasury, Payroll and Pensions Division.

The Board is made up of five members appointed by the Lieutenant Governor in Council representing employees, employers and the Government. The Chairman is independent of those represented above and is also charged with the responsibility to chair four other pension plan Boards.[1]

The 1989 report is primarily devoted to the quasi-judicial aspect of the Board's role. A cross-section of the appeals has been summarized in this report.

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[1] Public Service Pension Plan, Public Service Management Pension Plan, Universities Academic Pension Plan and Special Forces Pension Plan Boards. He is Vice-Chairman, Board of Administrators Teachers' Retirement Fund.

CHAIRMAN'S REPORT

During the period under review, 54% of the appellants attended or were represented at the hearings. It is a good indication that the Board was easily accessible in dealing with problems encountered by plan members. The Board has fulfilled its appellate function and heard 35 appeals during the period under review. A cross-section of the appeals is summarized in this report.

All hearings were held in Edmonton. Where an appellant was required to travel to Edmonton, the Board provided reimbursement of his expenses in accordance with its established policy on this issue.

All hearings are conducted on receipt of a `Notice of Appeal' filed by the member. Examples of the cases heard by the Board are reported under SUMMARY OF APPEALS.

Because of resignations and retirements, there were several changes to the membership of the Board. The Board sincerely wishes the departed members every success in their careers.

Each year, in conjunction with other government boards, a seminar is conducted to provide a degree of training and information to new and existing Board members. As in other years resigning or outgoing members were presented with a small token of appreciation. Invitations were extended to several employee, employer and `sister' organizations. This allows for discussion of different topics that are of interest. Payroll and Pensions and other divisions of Alberta Treasury were invited to provide input and information to the seminar. Topics this year included "Evolving Issues in Public Sector Pensions", "Plan Governance" and several others such as a review of the Board's legal responsibilities and authority. Speakers included a member from the private pension industry, the Board's legal consultant, union representatives and members from Payroll and Pensions and the Investment Divisions of Alberta Treasury. The seminar proved once again to be successful and beneficial to all.

In addition to the important quasi-judicial role, the Board made several recommendations to the Minister regarding cost of living adjustments to pensions, funding and pension reform. These recommendations are described under the heading ADVICE.

THE BOARD

The Board consists of representatives of various organizations participating in the plan. The employees are represented by members who are nominated by the Alberta Federation of Labour and the United Nurses of Alberta. Employers are represented by nominees of the Alberta Urban Municipal Association of Alberta and the Alberta Hospital Association. The public at large is represented by a member appointed by the Lieutenant Governor in Council.

The procedure used in filling vacancies on the Boards requires nomination of individuals by a recognized representative group. Usually two nominations for each vacancy is encouraged and from those nominated the Lieutenant Governor in Council appoints one. Individuals serve for a period of four years. The appointments are made on a modified rotation.

The Board currently consists of:

J. E. Faries

Mr. Jerry Faries was appointed Chairman effective November 1, 1985. He has considerable background in pension policy and administration having served over fifteen years as Director of the Pension Administration until December 31, 1979. He was a founding Director of the Association of Canadian Pension Management and was involved as Chairman of the Advisory Board of the Employee Benefit Certificate Program of the University of Alberta. He also holds several senior positions on other boards and community organizations. His term of office on the Board expires on April 1, 1992.

A. F. (Chip) Collins

"Chip" Collins served as Deputy Provincial Treasurer from 1972 until his retirement in 1984. Mr. Collins was appointed a Board Member and Vice-Chairman of the Board effective November 1, 1985. He brings to the Board extensive financial and administrative expertise as well as senior public service experience. Mr. Collins is a government representative. His term of office expires April 1, 1991.

A. G. Bruckner

Mr. Gunter Bruckner was appointed to the Board effective November 1, 1985. He worked as an Automotive Mechanic with Calgary Transit and held various positions with the Amalgamated Transit Union and Calgary Civic Employees Benefit Society. He retired as full time Financial Secretary/Treasurer and Business Agent with Amalgamated Transit Union (ATU) Local 583. His term of office expires April 1, 1992.

J. Foley

Educated in Scotland, Mr. Jack Foley has had 25 years of work experience in the British and Canadian corporate and group insurance industry as underwriter, administrator, and senior consultant. He has also worked as a senior pension administrator and employee benefits planner at both provincial and municipal levels in Alberta. He is currently employed with the City of Edmonton as a Benefits Planning Supervisor. His professional interests includes founding and teaching the Employee Benefits Planning and Administration Certificate Program at N.A.I.T., and sitting on the Canadian Pension Plan Appeals Board as Chairman/Member. His term of office expires on April 1, 1992.

H. Smith

Ms. Heather Smith was appointed to the Board April 1, 1988 as the representative of the United Nurses of Alberta. She graduated from the Algonquin Community College School of Nursing in Ottawa in 1976. Since then she has been a staff nurse at the Edmonton General Hospital. An active member of the United Nurses of Alberta, she has been the President of Local 79 since 1983, and has acted on several of their boards and committees. Her term of office expires on April 1, 1990.

W. Dartnell

Mr. William Dartnell is the Alberta Hospital Association's representative on the Board. He was appointed September 15, 1988. Since 1987, Mr. Dartnell has worked in hospital administration, and currently is the Executive Director at the Charles Camsell General Hospital. He was on the Board of Directors of the Alberta Hospital Association from 1982 - 1986, and has also served on a number of their committees. Mr. Dartnell's term of office expires on April 1, 1991. Mr. Dartnell resigned from the Board in November 1989 due to pressure of work. He was replaced by Mrs. S. Ewart-Johnson.

V. Sedo

Mr. Vic Sedo was appointed to the Board in 1989 as representative of the Alberta Federation of Labour. He graduated from Pacific Lutheran University with a Bachelor of Arts in Sociology and Philosophy with a sequence in Medical Social Work. He also attended Humber College Employee Benefit Program. Prior to joining the Alberta Union of Provincial Employees (AUPE) in 1975 as a Benefits Officer, Mr. Sedo was employed as a Medical Social Worker at the Glenrose Rehabilitation Hospital. Mr. Sedo administers AUPE's Welfare and Education Trust Funds and also holds positions on other judicial boards and community organizations. His term of office expires on April 1, 1991.

Staff

The Staff of the Chairman's office provides clerical and professional support to the five pension Boards:

- The Local Authorities Pension Plan Board
- The Public Service Pension Plan Board
- The Public Service Management Pension Plan Board
- The Universities Academic Pension Plan Board
- The Special Forces Pension Plan Board

In matters requiring technical advice and support, the staff seek assistance from an actuarial or consulting firm. Many working papers are prepared to provide information and background to Board members.

In respect of legal advice, the firm of de Villars Jones has been retained as the Board's legal consultant.

SUMMARY OF APPEALS

Provisions

The Act provides that a decision of the Minister which adversely affects plan members' rights under the pension plan, in any of the following areas can be appealed:

Participation	Contributions
Pensionable Service	Prior Service
Benefits	

The Act also provides for application to the Board for extension of time limits in respect of pension benefits and benefit choices. Under the terms of the various reciprocal transfer agreements, the Board is empowered to extend time limits on breaks in service and on applications, at its discretion.

The provisions dealing with applications under section 10 and appeals under section 35 are outlined for easy reference in Appendix A - excerpts from the Act.

Parties aggrieved by a decision of the Board under section 36 of the Act may appeal to the Court of Queen's Bench within 30 days on questions of law or jurisdiction.

Procedure

A ministerial prescribed Notice of Appeal form is normally provided to the plan member by Payroll and Pensions Division of Alberta Treasury with any adverse administrative decision. The aggrieved member must complete and submit this form when filing an appeal to the Board. It may also be used for applications for time limit extensions under the Act or under reciprocal transfer agreements.

Assistance to appellants is available from the Chairman's office. The individual may seek advice on what facts to gather and how these should be presented.

Though hearings are conducted in an informal manner, the Board is guided by the pension legislation and adheres to the principles of natural justice and fairness. The Board has published a Pension Appeal Process brochure which provides guidelines for members of the Alberta Pension Plans.

The Board has authorized the Chairman to reimburse appellants and applicants appearing before it for reasonable travel and out-of-pocket expenses. This ensures that all appellants and applicants have the opportunity to appear and present their cases irrespective of their places of residence.

During the reporting period, one case was appealed to the Court of Queen's Bench under Section 36 of the Act. Subsequently, the appellant decided to sue the Crown for damages rather than to continue with the appeal.

During 1989 the LAPP Board decided on 35 appeals and applications, compared to 23 dealt with in the previous year. The Board granted or varied 74% and 65% of the cases in 1989 and 1988 respectively.

In 1989, 54% of the appellants and applicants or their representatives attended their hearings before the Board. This compares to 70% in 1988.

Summary of Appeals and Applications for 1989, by categories, with comparative figures for 1988 - LAPP

	1989			1988		
Category	#	% of Total	% Granted or Varied	#	% of Total	% Granted or Varied
Reciprocal Transfer	13	37%	77%	9	42%	78%
Time Limit Extensions (Section 10)	4	11%	100%	0	0%	0%
Appeals (Section 35)	18	51%	67%	14	58%	57%
TOTAL	35	100%	74%	23	100%	65%

Three appeals were filed but did not require a hearing by the Board - the appeal provision was relied upon to facilitate a resolution and the cases were either granted by Payroll and Pensions Division (P & P) or withdrawn.

Summary of Appeals and Applications (1989) All Boards

During 1989, 76 appeals/applications were heard by the five Pension Boards. This compares to 58 heard during the calendar year 1988.

A. Summary by type of appeal/application. Also shown is the percentage in each type. Comparative figures for 1988 are included.

	1989		1988	
Type of Hearing	Number	% of Total	Number	% of Total
Appeals (Section 35)*	36	47	36	62
Applications Section 10	16	21	3	5
Applications (Reciprocal Agreements)	24	32	19	33
TOTAL	76	100	58	100

* Section 34 for UAPP

B. Number of Appeals/Applications filed but not heard.

Summary of number of cases granted by Payroll and Pensions and/or withdrawn by appellants prior to being heard by the Board is as follows:

Board	1989	1988	1987
PSPP	2	5	3
LAPP	3	10	10
PSMPP	1	1	1
UAPP	1	2	0
SFPP	1	1	1
TOTAL	8	19	15

C. Attendance at Hearings (by appellant and/or representative):

BOARD	1989	1988	1987
PSPP	79%	65%	75%
LAPP	54%	70%	64%
PSMPP	75%	100%	90%
UAPP	60%	80%	83%
SFPP	100%	100%	100%

D. Number of Appeals and Applications heard by the Boards

	Applications		Appeals	Total
	Reciprocal Transfer	Section 10	Section 35*	
LAPP	13	4	18	35
PSPP	10	7	7	24
PSMPP	0	0	4	4
UAPP	1	5	4	10
SFPP	-	-	3	3
TOTAL	24	16	36	76

* Section 34 for UAPP

E. Percentage of Appeals and Applications Granted or Varied

	Applications		Appeals	Total
	Reciprocal Transfer	Section 10	Section 35*	
LAPP	77%	100%	67%	74%
PSPP	60%	100%	29%	63%
PSMPP	-	-	50%	50%
UAPP	100%	80%	100%	90%
SFPP	-	-	33%	33%
Combined	71%	94%	58%	70%

* Section 34 for UAPP

F. Applications for Reciprocal Transfers (Time Limit Extensions)

	Exporting Plans							
Importing Plans	LAPP	PSPP	PSMPP	UAPP	SFPP	TRF	OTHER	TOTAL
LAPP	xx	8	1	-	-	2	2	13
PSPP	6	xx	-	-	-	3	1	10
PSMPP	-	-	xx	-	-	-	-	-
UAPP	1	-	-	xx	-	-	-	1
SFPP	-	-	-	-	xx	-	-	-
TOTAL	7	8	1	-	-	5	3	24

Appeal 1

Two issues were dealt with by this appeal.

(a) Prior Service

The appellant terminated employment in January 1980 and left her contributions on deposit for a deferred pension. In April 1980 she enquired with Payroll and Pensions (P & P) if she could establish a period of prior service from 1963 to 1966 for pension purpose. P & P replied negatively on the basis that she was no longer a contributor under the LAPP.

In December 1983 appellant wrote P & P again re purchase of prior service since she was working as a casual employee for another employer under the LAPP. P & P advised that as a casual employee, she did not participate in the Plan and was not eligible to establish prior service.

In December 1987 the appellant applied for retirement effective January 1988. In addition, she requested verbally and in writing to reinstate her service from 1963 to 1966 under the Plan. P & P rejected her request on the bases that it had not received the appellant's letter enquiring about her prior service, and that she was not a participant under the Plan.

The Board vacated the Minister's decision and allowed the service to be reinstated. The Board's reason was that the individual although not a contributing member continued to be a participant under the plan and therefore has a right to reinstate the service.

(b) Spousal Protection

At retirement, the appellant was requested to provide proof of age of her spouse. The appellant advised that her spouse had deserted her since 1973 and she had no knowledge of his whereabouts. She felt that her spouse should not be entitled to any benefits from her pension because she had received no contact or support from him since he left her. She pointed out that had she been informed of the change in the pension legislation in November 1985, in connection with spousal protection, she would have retired early to avoid being required to select a joint life pension option.

The Minister maintained that he had not made any decision; he had merely applied the Act requiring the appellant to choose a joint life option.

The Board confirmed the Minister's decision. Legislation clearly assigns certain rights to a spouse and requires a member to choose a joint life option. There is no provision in legislation to deal with situation where a person is separated but remains legally married to their spouse.

Appeal 2

Costing of Opted Out Service

The appellant applied to purchase a period of prior service for the period November 1972 to September 1982 during which she did not join the pension plan as a married female employee. The service was costed and the appellant was advised that she would be responsible for both employee and employer contributions because she had opted out of the plan. The employee took the position that she should not have to pay the employer share. English is not the first language of the appellant who speaks French. She argued that she did not understand the pension situation when she signed the waiver form which was initiated by the employer. She also claimed that there seemed to be some irregularities in the actual completion of the decision form, that is, the form might have been completed after her signature. (The Board viewed the decision bearing the appellant's signature at the hearing.)

The Minister denied the appellant's request to pay the employee share only in purchasing the service. Based on the fact that the appellant decided not to participate in the plan, the service was costed in accordance with the regulations.

The Board denied the appeal and confirmed the Minister's decision based on the following reasons:

The employer did not err in the action taken respecting participation.

The employer did not pressure employees to opt out of the plan.

Documentation provided indicated that she had made a choice not to be a participant in the plan.

Appeal 3

Commencement of Pension Payment

Appellant terminated employment in September 1976 and left his contributions on deposit for a deferred pension. In April 1977 a normal pension calculation form was sent to the appellant with a deferred pension estimate information brochure. In

October 1988 the employer telephoned P & P that the appellant was 55 years that month. In November 1988 the employer wrote P & P to request that the pension commence on October 1, 1988 since no documentation had been sent to the appellant prior to his 55th birthday concerning his retirement application. P & P denied the request to backdate pension to October 1, 1988.

Appellant argued that when he retired in 1976, he opted to have his Calgary supplemental pension started in October 1983. When his pension started on his 50th birthday, he did not realize that he was in receipt of his supplementary pension and not the Local Authorities pension. The first indication that he was required to apply separately for his LAPP pension was November 1988. He felt that there was miscommunication whereby his employer and P & P failed to inform him about pension application.

Because of lack of updated addresses and possible changes in circumstances, P & P's policy was not to contact individuals who had left their contributions on deposit for a deferred pension when they became eligible. The Minister decided in this case that the circumstances did not warrant backdating the pension for six months. It was also pointed out that the appellant's pension would be actuarially upgraded for the one month it was delayed.

The Board vacated the Minister's decision and backdated the pension to commence on October 1, 1988. The reason was that no advice was given to the appellant to make application before the pension commenced. Also once the appellant was notified, he applied immediately.

Appeal 4

Reciprocal Transfer - Time Limit

Applicant terminated employment in March 1988 and left his Public Service Pension Plan (PSPP) contributions on deposit for a deferred pension. He commenced employment and contributions under the LAPP in January 1989 and requested to transfer his service from the PSPP to the LAPP. P & P denied the transfer because the three-month time limit on break in service under the terms of the reciprocal agreement had been exceeded. P & P referred all applications for extension of time limits to the Board.

The applicant presented extenuating circumstances as follows:

> He applied for his current position with the LAPP employer in February 1988 prior to terminating his employment under the PSPP. In January 1987 he was advised by the Provincial Government that his position would be abolished on

March 31, 1987. His job search for positions covered under the reciprocal arrangements extended from January 1987 to April 1988. Supporting documents were submitted in this respect.

He kept in touch with the prospective employer since his application in February 1988. His current employer took nine months to complete the classification of the position because of internal problems. The position was budgeted for in December 1987 but was not posted until September 1988.

The applicant was interviewed in October 1988. However, further problems on setting salary for the position occurred and the position was posted again in November 1988. The employer confirmed that several other positions were processed relatively quickly during the same period.

He was not advised of the three-month time limit by the personnel office, job consultant or P & P.

He had difficulties in finding employment within the Alberta Government due to the best fit category he was in and the terms of the master agreement. He was hired on project basis with the Alberta Government after his job abolishment. To obtain income while he was seeking employment in the public service, the applicant took a temporary position with private industry.

The Board granted the extension to allow the transfer based on these reasons:

The member applied to his current employer and was actively considering the position prior to his termination of employment with Alberta Government.

The position did not become available earlier because of internal problems at the employer level.

Appeal 5

Application for a Disability Pension

The appellant retired in January 1989 due to a disability. After P & P's medical consultant reviewed the medical reports submitted by the appellant, the Minister decided not to grant the appellant a disability pension. In the Minister's view, the appellant's medical condition was not incompatible with her ability to do her job.

The appellant argued that because of angina, she was unable to cope with work or major housework. As confirmed in the medical report, the appellant suffered pain, sometimes even at rest. The appellant's life insurance premiums were paid by the employer because the insurance company considered her totally disabled. The physicians agreed that the appellant is not capable of doing any significant occupation. It was pointed out that the appellant's position before retirement required a certain standard of efficiency to be met and involved shift work. The appellant was unable to handle a stressful situation.

The Board vacated the Minister's decision and granted a total disability pension on the grounds that the medical evidence supported the appellant's incapacity for gainful employment.

Appeal 6

Costing of Prior Service

Appellant applied to have a period of prior service, May 1963 to January 1980, costed in 1985. She was charged both employee and employer contributions plus interest. The appellant advised that she was single in May 1963 when she started employment and remained so on completion of the probationary year. She was married in June 1964. Therefore, she contended that she should have been a plan participant from May 1963 to June 1964. She maintained that she did not opt out of the plan. She alleged that the employer also discouraged her from joining the plan. She further submitted evidence that the issue of participation and contributions had been dealt with and rejected by the employer on numerous occasions.

The Minister took the position that it was up to the employee and employer to deal with the issue of participation and contributions jointly. The department had no choice but to act on the decision made by the employer.

The Board decided that the appellant should participate under the LAPP effective May 1964 and that the employee and employer contributions plus interest be billed to each party respectively. Reasons for the decision were (a) that the appellant was not married at time of completing her probationary period and should have been enrolled in the plan; and (b) that there was no proof that the appellant had ever opted out of the plan.

Appeal 7

Plan Participation - "Full Time Continuous" Employee

The appellant commenced employment in May 1977 on a casual basis with breaks occurring each winter. In January 1988 he started contributing to the LAPP and proceeded to purchase the period May 1977 to December 1988 as pensionable service. P & P provided costing of the service charging the employee both portions of the contributions. In June 1988 appellant requested and received a Notice of Cost for four years of prior service from May 1977 to October 1983. The appellant was charged both portions of contributions. The appellant asked that the employee portion only be charged. The employer took the position that the appellant was a non-permanent employee and had to complete seven calendar years of service before being eligible to contribute to the LAPP. The employer confirmed that the appellant worked continuously from January 1985 to January 1988. Employer also advised that the appellant was laid off in December 1986.

The appellant submitted that since January 1985 he had been working continuously at 40 hours per week with no pre-determined end date. He cited three cases where individuals in the same situation as himself had purchased prior service paying the employee contributions only, with the employer paying its share. He was not laid off in December 1986; he simply took time off without pay over the Christmas holiday and it was done with the employer's permission. This same pattern was evident at Christmas in other years. Since he joined the electrical department in 1983, the only lay-off occurred in December 1984 when the foreman went on holiday and the employer decided not to keep the crew for three weeks. There was a separation slip issued for the lay-off in 1984. His work was non-seasonal at the electrical department.

P & P submitted its written report on the appeal but chose not to attend the hearing. The employer also elected not to attend.

The Board vacated the Minister's decision and decided that the appellant was an employee and was required to participate in the LAPP for the period January 1985 to January 1988. The reason of the decision was that the appellant was employed on a continuous basis for a minimum average of 30 hours per week throughout the year since January 1985.

Appeal 8

Payment of Interest on Pension Payments

In April 1988 the appellant applied to retire effective June 1988. Termination notice was received by P & P in mid-July 1988 requesting an immediate pension. In August 1988 an advance pension payment was forwarded to the appellant. Pension choice was made in September 1988. Choice was confirmed again in November 1988 because of changes to salary. In accordance with the legislation, the appellant was required to submit a spousal pension waiver form in November 1988 since he chose a 20-year guaranteed term. The employer confirmed that the spousal pension waiver had already been submitted in August 1988. In January 1989 a finalized pension cheque and letter were sent to the appellant. A supplementary cheque for the adjustments, covering July 1988 to December 1988, was also forwarded to the appellant. The appellant requested that additional interest be paid at bank rates on the arrears. P & P denied the request.

The appellant requested an interest payment of about $3,000 on the outstanding pension from July 1988 to January 1989. He pointed out that the prevailing bank interest rate would at least be 8% as opposed to plan interest rate of 4%. He argued that common practice was to pay interest on money owing, e.g. damage deposit on rental property and deposit on real estate purchase. He also claimed not to know about giving six-months notice for processing retirement.

The Minister submitted that P & P dealt with applications for retirement on a first-come-first-served basis and a six-month notice was usually required. In this case, the employee gave three-months notice. To avoid financial hardship to retirees, P & P processed advances on normal pension uncoordinated with the Federal Government programs. The Minister argued that the Board does not have the authority under the Act and regulation to provide interest on benefit payments. The Minister has such authority but chose not to exercise it in this case. However, should the Board decide to support the appellant's request, it could recommend to the Minister for relief as in a previous case.

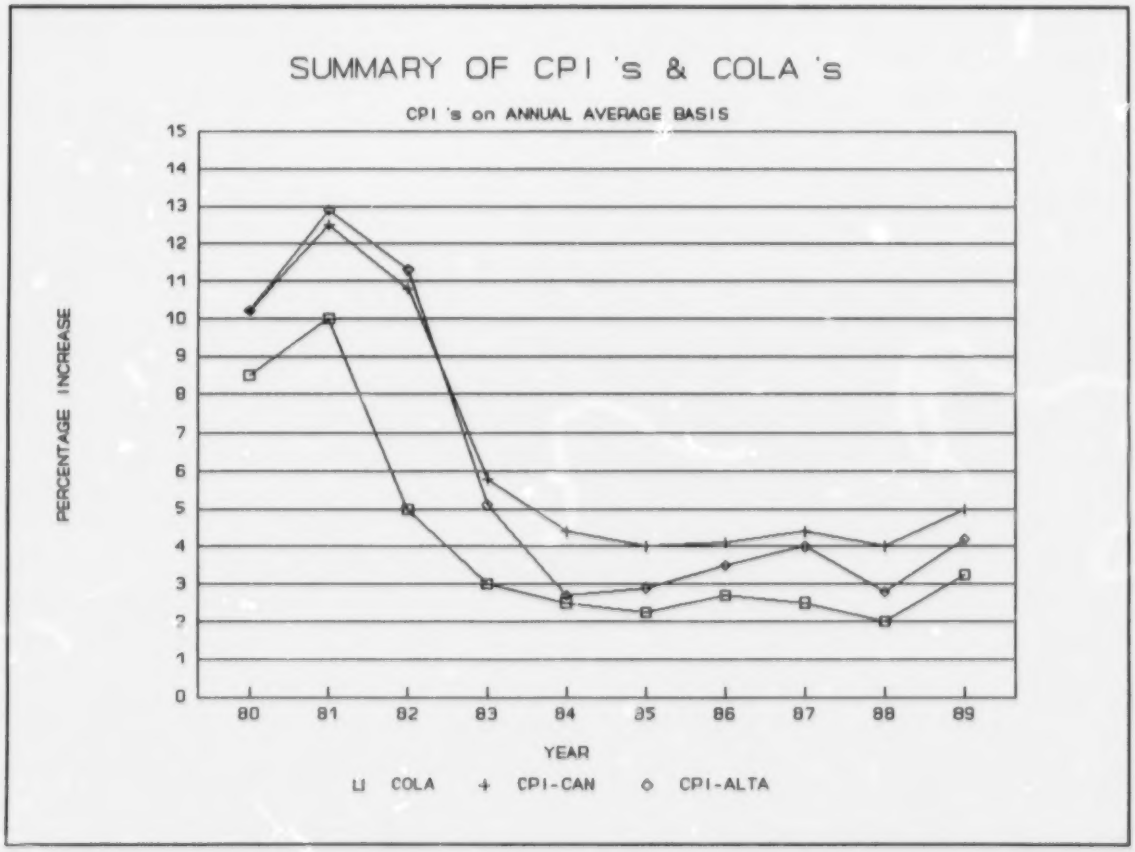
The Board confirmed the Minister's decision on the bases that there was no error or fault attributable to the employer or to P & P and that the delay in finalizing the pension was reasonable under the circumstance.

ADVICE

The Board has provided advice in respect of a number of issues affecting the Plan. These are outlined below together with the Board's recommendations.

Cost of Living Adjustment to Pensions

Currently, cost of living adjustments (COLA's) to pensions and deferred pensions are granted on an ad hoc basis by the Government. In November 1989 the Board recommended that COLA of 3.9% be granted effective January 1, 1990. The adjustment granted by the Lieutenant Governor in council was 3.25%.



The graph on the previous page shows the COLA's granted on January 1 following the years 1980 through 1989, i.e. the COLA of 3.25% shown for 1989 was granted on January 1, 1990. The Consumer Price Index (CPI) increases are for the calendar years, i.e. CPI-CAN shown for 1980 is the 10.2% increase which occurred in 1980. During the 10-year period the average annual increases were as follows: Canada CPI - 6.5%, Alberta CPI - 5.9%, COLA's granted - 4.1%.

Review of the Plans

On the issue of review of the LAPP, the Board suggested in June 1989 to the Minister that a copy of his report on the review, once available and prior to public release, be provided to the Board. The Minister responded in July 1989 that he would consider the Board's suggestion. However, he had reservations about a selective advance release to the Board in view of the wide range of interest groups involved.

Actuarial Assumptions to Establish Current Service Costs

The Board directed the Chairman to write the Minister in May 1989, reaffirming that valuations be done on alternate assumptions and method for the purpose of establishing appropriate employee and employer contributions rates. In his reply in July 1989 the Minister indicated that he did not see the need for an independent study. He also advised that another actuarial study would be conducted should the Government decide to adjust contribution rates to cover current service costs, as one of the measures to improve the finances of the plan.

Interest on Overdue Benefit Payments

Arising out of an appeal heard, the Board recommended to the Minister in January 1989 that a regulation be made under the authority of section 49(d) of the Act to deal with crediting of interest on overdue benefit payments which were delayed in error. The Minister did not feel that a regulation would be necessary; he would deal with each case on an exceptional basis.

Definition of Participants

Subsequent to dealing with an appeal involving the definition of "participant", the Board recommended to the Minister that it be given the authority to extend the rights of a dismissed individual under the Act. The Minister declined the Board's recommendation since he felt that clarification of the legislation is not necessary.

Employer Representative on the Board

To balance employee and employer representation on the Board, it recommended in June 1989 to the Minister to appoint an additional member to the Board representing the employer groups. The Minister advised in July 1989 that a response to the Board's proposal would be forthcoming on completion of his review of the plan.

Federal Legislation Relating to Retirement Savings

Throughout 1989, the Board examined the effects of the proposed amendments to the Income Tax Act on the LAPP. An analysis dated April 1989, prepared by the Wyatt Company, was provided by Payroll and Pensions to the Board in September 1989 for review.

Governance of the Plan

The Board noted the Alberta Urban Municipalities Association's (AUMA) proposal to the Minister for a separate pension arrangement for employers participating in the Local Authorities Pension Plan and the Special Forces Pension Plan whereby all pension matters come under the jurisdiction and control of an employee/employer board. The Minister's reply to the AUMA suggested that there are other alternatives meriting consideration which he is also examining.

Interest Rate on Outstanding Employee/Employer Contributions

In dealing with an appeal in December 1989, the Board considered it necessary to recommend to the Minister that a higher interest rate be charged in cases where an employee or an employer owes contributions for service that was previously unrecognized due to employer error. The Minister thanked the Board for its recommendation and informed that he planned to address the issue when he reviews the current plan interest rate of 4% in all its applications.

APPENDIX A

Excerpts from the Act

The following excerpts of the Local Authorities Pension Plan Act define the make-up and responsibilities of the Local Authorities Pension Plan Board

Establishment, composition, term of office, etc.

5(1) There is hereby established a board known as the Local Authorities Pension Plan Board.

(2) The Board shall consist of not fewer than 5 persons appointed members of the Board by the Lieutenant Governor in Council.

(3) The Lieutenant Governor in Council shall appoint 1 of the members of the Board from among participants and another from among persons nominated by the employers.

(4) A member of the Board holds office for the term fixed in relation to him by the Lieutenant Governor in Council.

(5) The Minister may prescribe the remuneration and expenses to be paid to members of the Board.

(6) The Board may make rules respecting the calling of and the conduct of business at its meetings.

Chairman and vice-chairman

6(1) The Lieutenant Governor in Council shall designate one of the members of the Board to be the chairman and another member to be the vice-chairman of the Board.

(2) The vice-chairman shall act as chairman when the office of the chairman is vacant or when the chairman is absent or unable to act.

Support services

7 The Minister shall provide such supplies, services and accommodation as he considers necessary to enable the Board to fulfil its objects.

Objects of the Board

8 The objects of the Board are

(a) to conduct the hearing of appeals under Part 6;

(b) to provide advice to the Minister under section 9;

(c) *where appropriate, to extend time limits and treat benefit choices as revoked under section 10;*

(d) *to exercise and perform any other powers and duties assigned to it by this Act and the regulations;*

(e) *to perform any other duties relating to the Plan that are assigned to it by the Minister.*

Advisory functions of the Board

9 *The Board may advise the Minister respecting any matters relating to the Plan, including*

(a) *the adequacy of contributions to meet benefits,*

(b) *adjustments to pensions under section 27,*

(c) *rates of interest for the purposes of the Plan,*

(d) *benefits,*

(e) *reciprocal agreements,*

(f) *recognition of prior service,*

(g) *eligibility and participation in the Plan, and*

(h) *the actuarial tables prescribed or to be prescribed by the Minister.*

Board's power to extend time limits, etc.

10(1) *Where*

(a) *a person fails to meet a time limit under the Plan,*

(b) *the failure will or could result in a person's obtaining different benefits than those he would have obtained had the time limit been met, and*

(c) *the Board is satisfied that the failure results from circumstances that import no material fault on the part of that person,*

the Board may, on application to it, extend the time limit.

(2) Where

(a) the circumstances set out in subsection (1)(a), (b) and (c) apply,

(b) the benefit has been received or has commenced to be paid, and

(c) the Board is satisfied that a choice, including a deemed choice, that would otherwise be irrevocable under section 40(2) could materially prejudice the best interests of the recipient or his dependants,

the Board may, on application to it, treat that choice as revoked, extend the time limit for making the choice and order any consequential adjustments in the benefits.

(3) Where

(a) a benefit choice has been made, and

(b) the Board is satisfied that

(i) the choice communicated to the Minister was not that which the person making the choice actually intended, and

(ii) the application mentioned in this section does not result from a change in a person's circumstances affecting the choice,

the Board may, on application made to it within 3 months from the date when the benefit was received or commenced to be paid, treat the choice as revoked and substitute for it the choice which, in the Board's opinion, the person originally intended to make and order any consequential adjustments in the benefits.

Appeal to the Board

35(1) A party aggrieved by a decision of the Minister under or in relation to Parts 2 to 5 or the prescribed provisions of the regulations, other than a decision under section 32 or one that could be the subject-matter of an application under section 10, may appeal against that decision to the Board.

(2) *A party wishing to appeal to the Board under this section must serve the chairman of the Board with a notice of appeal in the form prescribed by the Minister within 30 days of being notified in writing of the decision appealed against or within such longer period as the Board may, on application, allow.*

(3) *The notice of appeal must specify the decision appealed against and the grounds of appeal.*

(4) *The Board may identify persons who may be interested in the appeal and may give directions as to the persons to be served with the notice of appeal, whether or not they are parties.*

(5) *For the purposes of conducting an appeal under this section, the Board*

(a) *has all of the duties, powers, privileges and immunities given to a commissioner appointed under the Public Inquiries Act by sections 3, 4, 7 and 9 of the Act, and*

(b) *shall be deemed to be a person authorized for the purposes of section 1(a) of the Administrative Procedures Act.*

(6) *The Board may confirm, vacate or vary the decision appealed against.*

(7) *The Board shall serve the appellant and persons who received a notice of appeal with a copy of its decision, including the reasons for the decision.*

Appeal to the Court of Queen's Bench

36(1) *A party aggrieved by a decision of the Board under section 35 may, within 30 days of the date of service of the Board's decision on him or such longer period as the Court may allow, appeal to the Court of Queen's Bench on a question of law or jurisdiction.*

(2) *The procedure in an appeal to the Court of Queen's Bench shall be the same as that provided in the Alberta Rules of Court for applications by originating notice.*

(3) *The Court of Queen's Bench, on hearing the appeal, may confirm, vacate or vary the decision of the Board or make any order it considers just.*

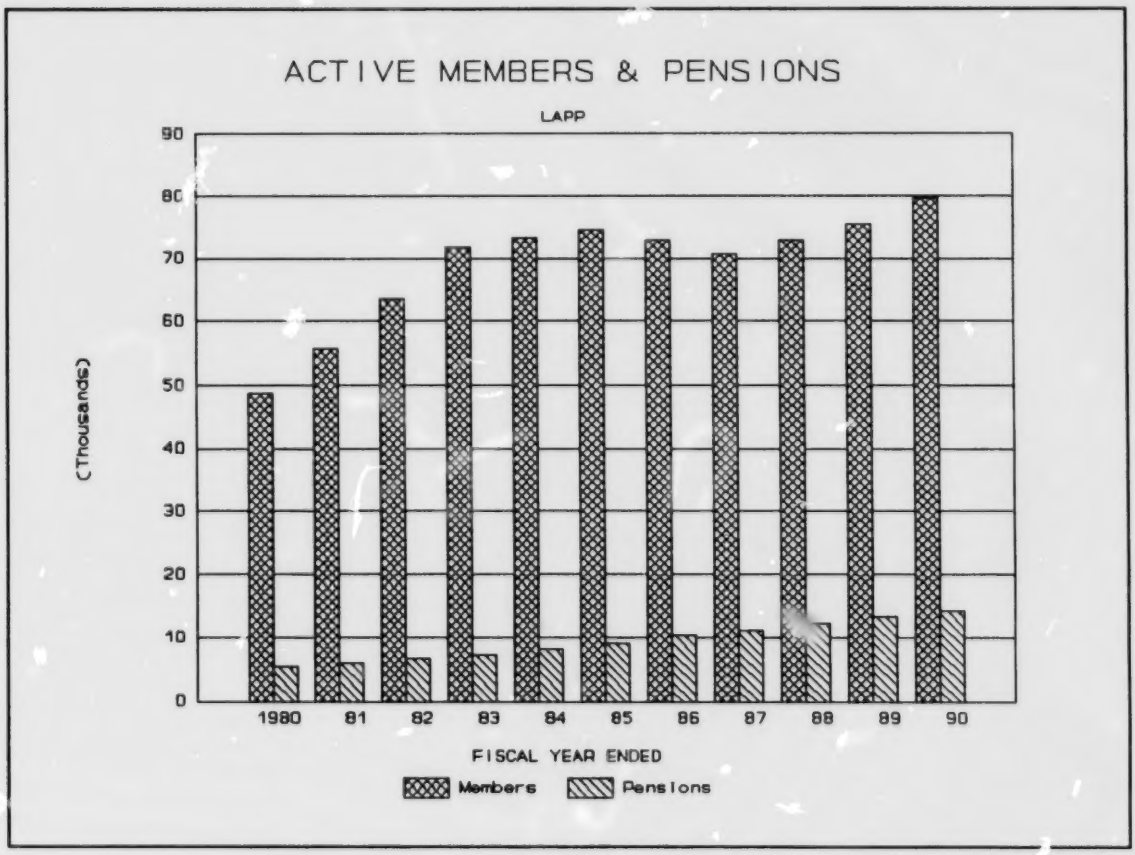
APPENDIX B

Summary of Plan Statistics

Statistics are provided by Payroll and Pensions Division of Alberta Treasury and interpreted by the Alberta Government Pension Boards office.

A. Active Members

Active membership in the Local Authorities Pension Plan increased from 48,734 at March 31, 1980 to 79,684 as at March 31, 1990. The following graph shows the relative changes from 1980 through 1990:



B. Pensions in Payment

Pensions in payment increased from 5,370 at March 31, 1980 to 14,158 as at March 31, 1990. The previous graph illustrates the relative increases.

The average pension in payment was $468.45 per month on March 31, 1980 and increased to $804 per month for pensioners and $610 per month for surviving spouses on March 31, 1990.

C. Cash Flow Summary

The graph below reveals that receipts were $70,058,136 for the fiscal year 1979/80 and increased to $239,480,000 in fiscal year 1989/90. Payments increased from $35,393,257 in fiscal year 1979/80 to $154,993,000 in fiscal year 1989/90. The excess contributions were $34,664,880 in fiscal year 1979/80 and $84,487,000 in fiscal year 1989/90.